

REMARKS

In the Office Action mailed March 16, 2004, the Examiner noted that claims 1-13 were pending and rejected claims 1-13. Claims 1, 3, 4 and 7-13 have been amended, claim 2 has been canceled, thus, in view of the forgoing claims 1 and 3-13 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections are traversed below.

On pages 2 and 3 of the Action the Examiner rejected all claims as directed to non-statutory subject matter. The claims have been amended and is submitted that they satisfy the requirements of the statute. Withdrawal of the rejection is requested.

On page 4 of the Office Action, the Examiner rejected all claim under 35 U.S.C. section 102 as anticipated by Cooper. In the Action the Examiner particularly rejected claim 2 over the Cooper Abstract and Cooper paragraph 0082. These portions of Cooper are reproduced below for convenience.

A method and system for transferring electronic media information over a public network in such a way as to provide safeguards for inappropriate distribution of copyright or otherwise protected materials are described. The media information is transparently watermarked with a unique ID, such as one generated from X.509 Digital Certificate and public-key cryptography public/private key pairs, such that the information can be identified as belonging to a particular individual. A system and method for monitoring the movement of such watermarked files, positively identifying people who have inappropriately distributed copyright materials over a public network without permission, and taking appropriate enforcement action against such people.

(See Cooper Abstract, underlined emphasis added)

[0082] Additionally, an encrypted message may appear in the content that can only be decrypted using the consumer's public key, which indicates that the consumer's private key was used to encrypt the message. If the decryption process yields a clear text message that is previously known to the customer site 270 B2C partner, it is certain that the consumer has been authenticated as being the person responsible for the content download.

(See Cooper paragraph 0082, underlined emphasis added)

The limitations of claim 2 has been added to independent claims 1 and 7-13. The above identified portions of Cooper are concerned with authenticating actions, such as when access to a literary work is sought. This has nothing to do with the sales of a literary work per units of rights based on a copyright of the literary work. Cooper teaches nothing about this. Anticipation "... requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." (see Lindemann v. American Hoist, 730 F.2d

1452,221 U.S.P.Q. 481,485(Fed.Cir.1983)). Thus, it is submitted that a prima facie case of anticipation of the claimed invention by Cooper has not been made.

It is submitted that the present claimed invention patentably distinguishes over Cooper and withdrawal of the rejection is requested.

No new issues have been raised as the amendment to claims 1 and 7-13 incorporates the limitations of cancelled claim 2 and addresses the concerns of the Examiner under 35 USC 101 thereby reducing issues for appeal. Further, the art rejection issue has been before the Examiner since the application was originally filed, thereby only requiring cursory review by the Examiner. Therefore, entry and reconsideration is appropriate (see MPEP §§ 714.12 & 714.13).

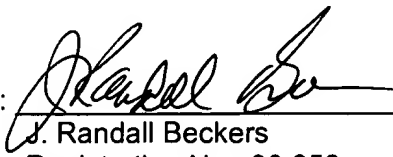
It is submitted that the claims satisfy the requirements of 35 U.S.C. § 101. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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